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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,701	10/05/2005	Fabiano Minelli	1542-2 PCT/US	8740

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EXAMINER

MACARTHUR, VICTOR L

ART UNIT	PAPER NUMBER
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3679

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/532,701

Applicant(s)

MINELLI, FABIANO

Examiner

Victor MacArthur

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 06/29/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “anti-tear type” screw and nut of claim 6 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1 and 7 are objected to because of the following informalities:

- The preamble of Claim 1 functionally recites the limitation “for fixing panels consisting of arc welded bars to support poles, particularly but not exclusively for fencings, where in said poles there is obtained at least one thorough hole” (lines 1-3 of claim 1) such that the “fixing panels”, “welded bars”, “support poles”, “fencings” and “thorough hole” do not constitute positively recited structure but rather elements only **intended to be used** with the “fixing system” (line 1 of claim 1). However, the claims elsewhere positively recite the above-mentioned structure thus creating a confusing ambiguity. The applicant should amend the claims to consistently recite the intended use structure functionally throughout. If the applicant actually intends for the above-mentioned structure to positively limit the scope of the claims then the intended use terminology (e.g., claim 2) must be omitted. For purposes of examination, the examiner has considered the claims without combination. See MPEP 2111.02 and *Kropa v. Robie*, 88 USPQ at 480-481; *Rowe*, 42 USPQ2d at 1553; and *IMS Technology Inc. v. Haas Automation Inc.*, 54 USPQ2d 1129, 1137 (Fed.Cir.2000).
- It appears that the applicant may be attempting to use Jepson format in the claims (e.g., the term “characterized” in line 3 of claim 1). If this is the case, proper Jepson claim format should be used in accordance with 37 CFR 1.75(e).
- The term “thorough hole” (line 3 of claim 1) appears to be a typographical error and should be replaced with --through hole--.

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- The term “the relevant pitch” (line 6 of claim 1) lacks proper antecedent basis and should be replaced with --a relevant pitch-- to improve claim clarity.
- The term “realising” (line 3 of claim 7) appears to be a typographical error and should be replaced with --realizing-- to improve claim clarity.

Appropriate correction is required. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 6 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the use of an “anti-tear head and nut” (lines 20-22 of page 4) rather than a normal bolt, does not reasonably provide enablement for any structure defining “anti-tear” over normal. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. That is to say that since the term “anti-tear” is not a known description of any common fastener and the drawings and specification fail to describe such a fastener, it is impossible to determine how the term might structurally limit the claim. Are anti-tear fasteners shaped differently than that which is shown in the applicant’s drawings? Are they made of a special material? Does the term anti-tear refer to the prevention of tearing of the fastener itself

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or elements intended to be fastened? How would any person skilled in the art make or use such a fastener?

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. Take for example the following:

- The pronouns “it” and “its” (lines 3 and 4 of claim 1) render the scope of the claims unclear and should be replaced with specific element nomenclature.
- It is unclear what element the phrase “the first one” (line 8 of claim 1) refers to.
- The term “and/or” (line 2 of claim 6 and line 4 of claim 7) renders the claims unclear since it is impossible to determine what elements are meant to be limiting.
- It is unclear what structure the limitations “anti-tear” (line 2 of claim 6) is meant to convey.
- Claim 8 recited the phrase “substantially as described , **illustrated** and claimed” (line 2 of claim 8) thus rendering the claim indefinite in that it fails to point out what is included or excluded by the claim language (emphasis added). This claim is an omnibus type claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Fricke (U.S. Patent 834,669).

Claim 1. Fricke discloses (fig.9) a fixing system characterized in that it comprises a screw (8a, 2a) having a threaded stem (8a) crossed centrally and for its entire length by a longitudinal thorough slit (11) and a nut (10) intended to screw on said threaded stem, the stem and a relevant pitch exhibiting a width and length (width and length of 8a), wherein:

- The Fricke fixing system is fully capable of performing the intended use of being for fixing panels consisting of arc welded bars to support poles, particularly but not exclusively for fencings, where in said poles there is obtained at least one through hole.
- The Fricke width and length are fully capable of performing the intended use of being for allowing the introduction of an end bar of a first panel into the slit, a stem passage through a hole in a pole, the introduction of an end bar of an optional second panel adjacent to the first one into the slit.
- The Fricke nut, when tightened, is fully capable of performing the intended use of being for locking two panels to a pole.

Claim 2. Fricke discloses the fixing system according to claim 1, wherein:

- The Fricke fixing system is fully capable of performing the intended use of being for use with poles that exhibit at least one plate element, orthogonal or in any case, non-parallel to a plane of panels.
- The Fricke threaded stem with the slit is fully capable of performing the intended use of being for passing through a hole obtained into a plate element.

Claim 3. Fricke discloses the fixing system according to claim 1, wherein the screw exhibits a head (2a) and the slit in the threaded stem partly extends also in said head (at 5a).

Claim 4. Fricke discloses the fixing system according to claim 2, wherein:

- the pole exhibits a rectangular section and at least one pair of aligned holes obtained on two opposed sides, and wherein the threaded stem of the screw exhibits such length as to pass through both said holes for fixing a first panel to one of said sides and a second panel to the opposed side.

Claim 5. Fricke discloses the fixing system according to claim 1, wherein:

- The slit in the screw stem exhibits such width as to be fully capable of performing the intended use of being for receiving bars of two or more superimposed panels.

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Claim 6. Fricke discloses the fixing system according to claim 1, wherein the head of the screw and/or the nut are of the anti-tear type (in as much as the applicant's own invention is).

Claim 7. Fricke discloses a fixing system according to claim 1, wherein:

- The Fricke fixing system is fully capable of performing the intended use of being for final locking of a panel to a relative pole by the nut after a bar of a panel passing into the slit is free to move angularly and/or axially for realizing fencings or similar structures provided with angles and/or steps.

Claim 8. Fricke discloses a fixing system according to claim 1, wherein:

- the Fricke fixing system is fully capable of performing the intended use of being for the specified purpose of fencing.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Referring to fixing systems:

Turner U.S. Patent 822,492

Kearney U.S. Patent 1,677,783

Bash U.S. Patent 1,948,838

Peirce U.S. Patent 2,135,623

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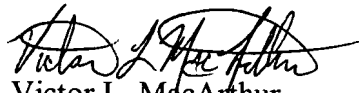
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor MacArthur whose telephone number is (571) 272-7085.

The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

April 24, 2007


Victor L. MacArthur
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